

JUDGE MARTINEZ

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

UNITED STATES OF AMERICA,

Plaintiff,

v.

EDGARDO COLOSIO-DUSSAN, et. al.,

Defendants.

NO. CR06-206RSM

ORDER CONTINUING
PRETRIAL MOTIONS
DEADLINE AND
TRIAL DATE

Defendant Edgardo Colosio-Dussan filed a Motion for Extension of Time to File Pretrial Motions and Continue Trial (Dkt. 132), requesting that the pretrial motions deadline and trial be continued for approximately three months. Four other defendants have joined in that motion, as follows: Steven Bruce McKay (Dkt. 135), Salomon Torres-Alvarado (Dkt. 136), Diogenes Austudillo-Zinser (Dkt. 137), and Freddy Mascarenas-Rodriguez (Dkt. 138). The United States filed a Response and does not oppose the motion.

This Court's decision is based on and specifically incorporates the facts stated in the Motion, Notices of Joinder, and the Government's Response, and the facts apparent from the record, including the following specific findings:

1. This case is complex. It stems from a long-term investigation involving multiple agencies, and included the simultaneous execution of over thirty search warrants in two states on the date of arrest. The charges carry the potential for mandatory 10-year, 20-year, or even mandatory life sentences for some defendants, depending on criminal history.

1 Trial presently is set for November 13, 2006, and pretrial motions were due on September 7,
2 2006. Eight defendants remain pending trial.

3 2. This case involves a large volume of discovery. Among this discovery is several
4 thousand conversations intercepted over three Court-authorized Title III wire intercepts
5 (wiretaps). Many of these calls are not in English, and must be translated into English for
6 counsel and the Court. The translation effort has been complicated by the fact that some
7 calls are in an indigenous language of Southern Mexico, *Mixteco Bajo*, for which English-
8 speaking translators are very difficult to find. The discovery includes fifteen CDs containing
9 over 3500 pages of documents and thousands of audio files, and summaries of calls, as well
10 as 100 CDs containing audio and video recordings.

11 3. Several defendants in this case have only recently substituted new counsel.
12 Edgardo Colosio-Dussan filed a motion to substitute counsel on September 1, 2006.
13 (Dkt. 131.) New counsel for Freddy Mascarenas-Rodriguez appeared on August 14, 2006,
14 (Dkt. 125), and new counsel for Osvaldo Soriano-Silva appeared on August 2, 2006
15 (Dkt. 120). New counsel require additional time to obtain and review the discovery and
16 conduct any necessary investigation.

17 4. Five defendants have requested this continuance, and are expected to issue a
18 written knowing, voluntary, and intelligent waivers of the right to a speedy trial. The
19 Government does not oppose their request, provided they submit valid speedy trial waivers.
20 The remaining defendants are joined with the others for trial, and no severance has been
21 granted.

22 5. In light of the interest of the public in ensuring the accused adequate, effective,
23 and continued representation by counsel presently assigned, this Court finds that the ends of
24 justice served by granting the requested continuance outweigh the best interest of the public
25 and defendants in a speedy trial. This Court further concludes that the above findings and
26 bases for continuing the trial comport with 18 U.S.C. § 3161(h) and the United States
27 Supreme Court's recent decision in Zedner v. United States, 126 S. Ct. 1976 (2006).
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1 Accordingly, for the reasons listed above and those apparent from the record, the
2 Motion for Continuance is HEREBY GRANTED.

3 Trial is reset for January 22, 2007, at 9:00 a.m.

4 Pretrial Motions are due on November 24, 2006.

5 The Court further finds that time from the filing of the motion through the new trial
6 date shall be excluded from computation under 18 U.S.C. §§ 3161(h)(8)(A),
7 3161(h)(8)(B)(i), and 3161(h)(8)(B)(ii) for all defendants because the failure to grant the
8 requested continuance would be likely to result in a miscarriage of justice, and because the
9 case is so complex due to the number of defendants, the nature of the prosecution, and the
10 existence of novel questions of fact or law, that it is unreasonable to expect adequate
11 preparation for pretrial proceedings or for the trial itself within the time limits established by
12 the Speedy Trial Act, and under 18 U.S.C. § 3161(h)(7), because the defendants are all
13 joined for trial and no motion for severance has been granted.

14 Dated this __12__ day of September 2006.

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17 RICARDO S. MARTINEZ
18 UNITED STATES DISTRICT JUDGE

19 Presented by:

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